

## Internal Revenue Service, Treasury

## § 1.41-0

### TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1986

SOURCE: Sections 1.41-0—1.41-9 appear by T.D. 8251, 54 FR 21204, May 17, 1989, unless otherwise noted.

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## § 1.41-1 Introduction to regulations under section 41.

Sections 1.41-2 through 1.41-9 deal only with certain provisions of section 41. The following table identifies the provisions of section 41 that are dealt with, and lists each with the section of the regulations in which it is covered:

Section of the regulations	Section of the Code
1.41-2 .....	41(b)(1) 41(b)(2)(A)(ii) 41(b)(2)(A)(iii) 41(b)(2)(B) 41(b)(3)
1.41-3 .....	41(c)(2) 41(f)(4)
1.41-5 .....	41(d)
1.41-7 .....	41(e)
1.41-8 .....	41(f)(1)
1.41-9 .....	41(f)(2) 41(f)(3) 41(g)

Sections 1.41-4 and 1.41-6 deal with the definition of qualified research and basic research for taxable years beginning after December 31, 1985. Section 1.41-3 also deals with the special rule in section 221(d)(2) of the Economic Recovery Tax Act of 1981 relating to tax-

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able years overlapping the effective dates of section 41. Section 41 was formerly designated sections 30 and 44F. The regulations refer to these sections as section 41 for conformity purposes. Of course, whether section 41, 30 or 44F applies to a particular expenditure depends upon when the expenditure was paid or incurred.

## § 1.41-2 Qualified Research Expenses.

(a) *Trade or business requirement*—(1) *In general.* An in-house research expense of the taxpayer or a contract research expense of the taxpayer is a qualified research expense only if the expense is paid or incurred by the taxpayer in carrying on a trade or business of the taxpayer. The phrase “in carrying on a trade or business” has the same meaning for purposes of section 41(b)(1) as it has for purposes of section 162; thus, expenses paid or incurred in connection with a trade or business within the meaning of section 174(a) (relating to the deduction for research and experimental expenses) are not necessarily paid or incurred in carrying on a trade or business for purposes of section 41. A research expense must relate to a particular trade or business being carried on by the taxpayer at the time the expense is paid or incurred in order to be a qualified research expense. For purposes of section 41, a contract research expense of the taxpayer is not a qualified research expense if the product or result of the research is intended to be transferred to another in return for license or royalty payments and the taxpayer does not use the product of the research in the taxpayer’s trade or business.

(2) *New business.* Expenses paid or incurred prior to commencing a new business (as distinguished from expanding an existing business) may be paid or incurred in connection with a trade or business but are not paid or incurred in carrying on a trade or business. Thus, research expenses paid or incurred by a taxpayer in developing a product the sale of which would constitute a new trade or business for the taxpayer are not paid or incurred in carrying on a trade or business.

(3) *Research performed for others*—(i) *Taxpayer not entitled to results.* If the taxpayer performs research on behalf